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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/601,298 | 06/20/2003 | Emmanuel Berthod | 09143-US | 6388 |

7590

10/01/2004

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EXAMINER

LAZO, THOMAS E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3745

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/601,298 | BERTHOD ET AL. | |
| | Examiner | Art Unit | |
| | Thomas E. Lazo | 3745 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/20/03 11/10/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulte et al. (5,921,010). Schulte et al. discloses a hydraulic control arrangement with a lift boom, a tool 12 mounted to an end of the boom for adjustment about a pivot axis, at least one hydraulic cylinder 14 coupled between the boom and the tool 12 for selectively adjusting the tool 12, a directional control valve 18 coupled to first and second pressure chambers of the hydraulic cylinder 14 for controlling the path of the pressurized fluid between the pressure chambers and a source of fluid pressure and a tank, a safety valve 94 being inserted between the directional control valve 18 and the first pressure chamber 50 of the cylinder 14 for preventing movement of the cylinder 14 in the event of a rupture in a hose connected between the directional control valve 18 and the safety valve 94, the safety valve 94 including a valve element that can be opened to reposition the cylinder 14 and a pressure accumulator 22 connectible with the first pressure chamber 50 of the cylinder 14, wherein the pressure accumulator 22 is connected to the first pressure chamber 50 of the cylinder 14 exclusive of any working components of the safety valve 94, the pressure accumulator 22 is connected directly to the first pressure chamber 50, the pressure accumulator 22 is connected with the first pressure chamber 50 only through

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mechanically rigid connecting elements 88,46, the safety valve 94 includes a valve block having a fluid passage coupled to the first pressure chamber 50, and the accumulator 22 is connected to the fluid passage exclusive of any working components of the safety valve 94.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schulte et al., as applied to claim 1 above, in view of Drake et al. (5,195,864). Schulte et al. discloses all of the claimed subject matter except for a remotely controllable on/off valve coupled between the pressure accumulator and the first pressure chamber for selectively providing free fluid flow between the pressure accumulator and the first pressure chamber.

Drake et al. teaches for a hydraulic control arrangement with a lift boom, a tool mounted to an end of the boom for adjustment about a pivot axis, at least one hydraulic cylinder 34 coupled between the boom and the tool for selectively adjusting the tool, a directional control valve 36 coupled to first and second pressure chambers of the hydraulic cylinder 34 for controlling the path of the pressurized fluid between the pressure chambers and a source of fluid pressure and a tank, and a pressure accumulator 72 connectible with the first pressure chamber of the cylinder 34 and that there is a remotely controllable on/off valve 74 coupled between the pressure accumulator 72 and the first pressure chamber for selectively providing free fluid flow

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between the pressure accumulator 72 and the first pressure chamber for the purposes of providing shock absorbing means.

Since Schulte et al. and Drake et al. are both hydraulic control arrangements with pressure accumulators it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the hydraulic control arrangement of Schulte et al., based on the teachings of Drake et al. to include a remotely controllable on/off valve coupled between the pressure accumulator and the first pressure chamber for selectively providing free fluid flow between the pressure accumulator and the first pressure chamber for the purposes of providing shock absorbing means.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schulte et al. Schulte et al. discloses all of the claimed subject matter except for the safety valve and the pressure accumulator being connected to the pressure chamber at separate locations.

Since the applicant has not disclosed that having the safety valve and the pressure accumulator connected to the pressure chamber at separate locations solves any stated problem or is for any particular purpose above the fact that it provides damping and effective safety valve operation and it appears that the connections of the safety valve and the pressure accumulator to the pressure chamber of Schulte et al would perform equally well with the safety valve and the pressure accumulator connected to the pressure chamber at separate locations as claimed by applicant, it would have been an obvious matter of engineering expedience to further modify the connections of Schulte et al. by making the connections of the safety valve and the pressure

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accumulator to the pressure chamber separate as claimed for the purposes of having the safety valve and pressure accumulator in different locations on the machine.

Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consists of two patents.

A'Hearn et al. (6,357,230) and Hosseini (5,333,533) are cited to show hydraulic control arrangement with pressure accumulators.

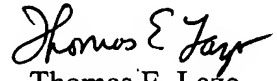
Contact Information

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thomas Lazo whose telephone number is (703) 308-2285. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Look, can be reached on (703) 308-1044. The fax phone number for this Group is (703) 872-9306.

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Any inquiry of a general nature or relating to status of this application or proceeding should be direct to the Group receptionist whose telephone number is (703) 308-0861.


Thomas E. Lazo
Primary Examiner
Art Unit 3745

TEL
September 28, 2004